

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. 2008-50

CAROL ELIZABETH HOLLIDAY

109 Miramonte Drive
Moraga, CA 94556

Registered Nurse License No. 475931

Respondent

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in the above entitled matter.

This Decision shall become effective on November 28, 2009.

IT IS SO ORDERED October 28, 2009.



President
Board of Registered Nursing
Department of Consumer Affairs
State of California

ORIGINAL

1 EDMUND G. BROWN JR., Attorney General
of the State of California

2 FRANK H. PACOE
Supervising Deputy Attorney General

3 MARETTA WARD, State Bar No. 176470
Deputy Attorney General

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7 Attorneys for Complainant

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 **In the Matter of the Accusation Against:**

Case No. 2008-50

13 **CAROL ELIZABETH HOLLIDAY**
14 **109 Miramonte Drive**
15 **Moraga, CA 94556**
16 **Registered Nurse, License No. 475931**

OAH No.

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

Respondent.

17 **IT IS HEREBY STIPULATED AND AGREED** by and between the parties to
18 the above-entitled proceedings that the following matters are true:

19 **PARTIES**

20 1. Ruth Ann Terry, M.P.H, R.N. (Complainant) is the Executive Officer of
21 the Board of Registered Nursing. Complainant has brought this action solely in her official
22 capacity and is represented in this matter by Edmund G. Brown Jr., Attorney General of the State
23 of California, by Marett Ward, Deputy Attorney General.

24 2. Respondent Carol Elizabeth Holliday (Respondent) is represented in this
25 proceeding by attorney Robert Rudolph, Esq., whose address is Law Offices of Robert Rudolph
26 P.O. Box 641170, San Francisco, CA 94164-1170.

27 3. On or about March 31, 1992, the Board of Registered Nursing issued
28 Registered Nurse, License No. 475931 to Carol Elizabeth Holliday (Respondent). The
Registered Nurse, License No. 475931 will expire on March 31, 2010, unless renewed.

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10. Respondent agrees that her Registered Nurse, License is subject to discipline and she agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

CONTINGENCY

11. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

12. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Registered Nurse, License No. 475931 issued to Respondent Carol Elizabeth Holliday (Respondent) is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions.

Severability Clause. Each condition of probation contained herein is a separate and distinct condition. If any condition of this Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other applications thereof, shall not be affected. Each condition of this Order shall separately be valid and enforceable to the fullest extent permitted by law.

1. **Obey All Laws.** Respondent shall obey all federal, state and local laws. A full and detailed account of any and all violations of law shall be reported by Respondent to the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with this condition, Respondent shall submit completed fingerprint forms and fingerprint fees within 45 days of the effective date of the decision, unless previously submitted as part of the licensure application process.

2. **Comply with the Board's Probation Program.** Respondent shall fully comply with the conditions of the Probation Program established by the Board and cooperate

with representatives of the Board in its monitoring and investigation of the Respondent's compliance with the Board's Probation Program. Respondent shall inform the Board in writing within no more than 15 days of any address change and shall at all times maintain an active, current license status with the Board, including during any period of suspension.

Upon successful completion of probation, Respondent's license shall be fully restored.

3. **Report in Person.** Respondent, during the period of probation, shall appear in person at interviews/meetings as directed by the Board or its designated representatives.

4. **Residency, Practice, or Licensure Outside of State.** Periods of residency or practice as a registered nurse outside of California shall not apply toward a reduction of this probation time period. Respondent's probation is tolled, if and when she resides outside of California. Respondent must provide written notice to the Board within 15 days of any change of residency or practice outside the state, and within 30 days prior to re-establishing residency or returning to practice in this state.

Respondent shall provide a list of all states and territories where she has ever been licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide information regarding the status of each license and any changes in such license status during the term of probation. Respondent shall inform the Board if she applies for or obtains a new nursing license during the term of probation.

5. **Submit Written Reports.** Respondent, during the period of probation, shall submit or cause to be submitted such written reports/declarations and verification of actions under penalty of perjury, as required by the Board. These reports/declarations shall contain statements relative to Respondent's compliance with all the conditions of the Board's Probation Program. Respondent shall immediately execute all release of information forms as may be required by the Board or its representatives.

Respondent shall provide a copy of this Decision to the nursing regulatory agency in every state and territory in which she has a registered nurse license.

1 6. **Function as a Registered Nurse.** Respondent, during the period of
2 probation, shall engage in the practice of registered nursing in California for a minimum of 24
3 hours per week for 6 consecutive months or as determined by the Board.

4 For purposes of compliance with the section, "engage in the practice of registered
5 nursing" may include, when approved by the Board, volunteer work as a registered nurse, or
6 work in any non-direct patient care position that requires licensure as a registered nurse.

7 The Board may require that advanced practice nurses engage in advanced practice
8 nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the
9 Board.

10 If Respondent has not complied with this condition during the probationary term,
11 and Respondent has presented sufficient documentation of her good faith efforts to comply with
12 this condition, and if no other conditions have been violated, the Board, in its discretion, may
13 grant an extension of Respondent's probation period up to one year without further hearing in
14 order to comply with this condition. During the one year extension, all original conditions of
15 probation shall apply.

16 7. **Employment Approval and Reporting Requirements.** Respondent
17 shall obtain prior approval from the Board before commencing or continuing any employment,
18 paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all
19 performance evaluations and other employment related reports as a registered nurse upon request
20 of the Board.

21 Respondent shall provide a copy of this Decision to her employer and immediate
22 supervisors prior to commencement of any nursing or other health care related employment.

23 In addition to the above, Respondent shall notify the Board in writing within
24 seventy-two (72) hours after she obtains any nursing or other health care related employment.
25 Respondent shall notify the Board in writing within seventy-two (72) hours after she is
26 terminated or separated, regardless of cause, from any nursing, or other health care related
27 employment with a full explanation of the circumstances surrounding the termination or
28 separation.

1 8. **Supervision.** Respondent shall obtain prior approval from the Board
2 regarding Respondent's level of supervision and/or collaboration before commencing or
3 continuing any employment as a registered nurse, or education and training that includes patient
4 care.

5 Respondent shall practice only under the direct supervision of a registered nurse
6 in good standing (no current discipline) with the Board of Registered Nursing, unless alternative
7 methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician)
8 are approved.

9 Respondent's level of supervision and/or collaboration may include, but is not
10 limited to the following:

11 (a) Maximum - The individual providing supervision and/or collaboration is
12 present in the patient care area or in any other work setting at all times.

13 (b) Moderate - The individual providing supervision and/or collaboration is in
14 the patient care unit or in any other work setting at least half the hours Respondent works.

15 (c) Minimum - The individual providing supervision and/or collaboration has
16 person-to-person communication with Respondent at least twice during each shift worked.

17 (d) Home Health Care - If Respondent is approved to work in the home health
18 care setting, the individual providing supervision and/or collaboration shall have person-to-
19 person communication with Respondent as required by the Board each work day. Respondent
20 shall maintain telephone or other telecommunication contact with the individual providing
21 supervision and/or collaboration as required by the Board during each work day. The individual
22 providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-
23 site visits to patients' homes visited by Respondent with or without Respondent present.

24 9. **Employment Limitations.** Respondent shall not work for a nurse's
25 registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a
26 traveling nurse, or for an in-house nursing pool.

27 Respondent shall not work for a licensed home health agency as a visiting nurse
28 unless the registered nursing supervision and other protections for home visits have been

1 approved by the Board. Respondent shall not work in any other registered nursing occupation
2 where home visits are required.

3 Respondent shall not work in any health care setting as a supervisor of registered
4 nurses. The Board may additionally restrict Respondent from supervising licensed vocational
5 nurses and/or unlicensed assistive personnel on a case-by-case basis.

6 Respondent shall not work as a faculty member in an approved school of nursing
7 or as an instructor in a Board approved continuing education program.

8 Respondent shall work only on a regularly assigned, identified and predetermined
9 worksite(s) and shall not work in a float capacity.

10 If Respondent is working or intends to work in excess of 40 hours per week, the
11 Board may request documentation to determine whether there should be restrictions on the hours
12 of work.

13 10. **Complete a Nursing Course(s).** Respondent, at her own expense, shall
14 enroll and successfully complete a course(s) relevant to the practice of registered nursing no later
15 than six months prior to the end of her probationary term.

16 Respondent shall obtain prior approval from the Board before enrolling in the
17 course(s). Respondent shall submit to the Board the original transcripts or certificates of
18 completion for the above required course(s). The Board shall return the original documents to
19 Respondent after photocopying them for its records.

20 11. **Cost Recovery.** Respondent shall pay to the Board costs associated with
21 its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the
22 amount of \$8,500. Respondent shall be permitted to pay these costs in a payment plan approved
23 by the Board, with payments to be completed no later than three months prior to the end of the
24 probation term.

25 If Respondent has not complied with this condition during the probationary term,
26 and Respondent has presented sufficient documentation of her good faith efforts to comply with
27 this condition, and if no other conditions have been violated, the Board, in its discretion, may
28 grant an extension of Respondent's probation period up to one year without further hearing in

1 order to comply with this condition. During the one year extension, all original conditions of
2 probation will apply.

3 12. **Violation of Probation.** If Respondent violates the conditions of her
4 probation, the Board after giving Respondent notice and an opportunity to be heard, may set
5 aside the stay order and impose the stayed discipline (revocation/suspension) of Respondent's
6 license.

7 If during the period of probation, an accusation or petition to revoke probation has
8 been filed against Respondent's license or the Attorney General's Office has been requested to
9 prepare an accusation or petition to revoke probation against Respondent's license, the
10 probationary period shall automatically be extended and shall not expire until the accusation or
11 petition has been acted upon by the Board.

12 13. **License Surrender.** During Respondent's term of probation, if she ceases
13 practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of
14 probation, Respondent may surrender her license to the Board. The Board reserves the right to
15 evaluate Respondent's request and to exercise its discretion whether to grant the request, or to
16 take any other action deemed appropriate and reasonable under the circumstances, without
17 further hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent
18 will no longer be subject to the conditions of probation.

19 Surrender of Respondent's license shall be considered a disciplinary action and
20 shall become a part of Respondent's license history with the Board. A registered nurse whose
21 license has been surrendered may petition the Board for reinstatement no sooner than the
22 following minimum periods from the effective date of the disciplinary decision:

23 (1) Two years for reinstatement of a license that was surrendered for any
24 reason other than a mental or physical illness; or

25 (2) One year for a license surrendered for a mental or physical illness.

26 14. **Participate in Treatment/Rehabilitation Program for Chemical**
27 **Dependence.** Respondent, at her expense, shall successfully complete during the probationary
28 period or shall have successfully completed prior to commencement of probation a Board-

1 approved treatment/rehabilitation program of at least six months duration. As required, reports
2 shall be submitted by the program on forms provided by the Board. If Respondent has not
3 completed a Board-approved treatment/rehabilitation program prior to commencement of
4 probation, Respondent, within 45 days from the effective date of the decision, shall be enrolled in
5 a program. If a program is not successfully completed within the first nine months of probation,
6 the Board shall consider Respondent in violation of probation.

7 Based on Board recommendation, each week Respondent shall be required to
8 attend at least one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics
9 Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and directed
10 by the Board. If a nurse support group is not available, an additional 12-step meeting or
11 equivalent shall be added. Respondent shall submit dated and signed documentation confirming
12 such attendance to the Board during the entire period of probation. Respondent shall continue
13 with the recovery plan recommended by the treatment/rehabilitation program or a licensed
14 mental health examiner and/or other ongoing recovery groups.

15 **15. Abstain from Use of Psychotropic (Mood-Altering) Drugs.** Respondent
16 shall completely abstain from the possession, injection or consumption by any route of all
17 controlled substances and all psychotropic (mood altering) drugs, including alcohol, except when
18 the same are ordered by a health care professional legally authorized to do so as part of
19 documented medical treatment. Respondent shall have sent to the Board, in writing and within
20 fourteen (14) days, by the prescribing health professional, a report identifying the medication,
21 dosage, the date the medication was prescribed, the Respondent's prognosis, the date the
22 medication will no longer be required, and the effect on the recovery plan, if appropriate.

23 Respondent shall identify for the Board a single physician, nurse practitioner or
24 physician assistant who shall be aware of Respondent's history of substance abuse and will
25 coordinate and monitor any prescriptions for Respondent for dangerous drugs, controlled
26 substances or mood-altering drugs. The coordinating physician, nurse practitioner, or physician
27 assistant shall report to the Board on a quarterly basis Respondent's compliance with this
28 condition. If any substances considered addictive have been prescribed, the report shall identify a

1 program for the time ~~limited~~ use of any such substances.

2 The Board may require the single coordinating physician, nurse practitioner, or
3 physician assistant to be a specialist in addictive medicine, or to consult with a specialist in
4 addictive medicine.

5 16. **Submit to Tests and Samples.** Respondent, at her expense, shall
6 participate in a random, biological fluid testing or a drug screening program which the Board
7 approves. The length of time and frequency will be subject to approval by the Board.
8 Respondent is responsible for keeping the Board informed of Respondent's current telephone
9 number at all times. Respondent shall also ensure that messages may be left at the telephone
10 number when she is not available and ensure that reports are submitted directly by the testing
11 agency to the Board, as directed. Any confirmed positive finding shall be reported immediately
12 to the Board by the program and Respondent shall be considered in violation of probation.

13 In addition, Respondent, at any time during the period of probation, shall fully
14 cooperate with the Board or any of its representatives, and shall, when requested, submit to such
15 tests and samples as the Board or its representatives may require for the detection of alcohol,
16 narcotics, hypnotics, dangerous drugs, or other controlled substances.

17 If Respondent has a positive drug screen for any substance not legally authorized
18 and not reported to the coordinating physician, nurse practitioner, or physician assistant, and the
19 Board files a petition to revoke probation or an accusation, the Board may suspend Respondent
20 from practice pending the final decision on the petition to revoke probation or the accusation.
21 This period of suspension will not apply to the reduction of this probationary time period.

22 If Respondent fails to participate in a random, biological fluid testing or drug
23 screening program within the specified time frame, Respondent shall immediately cease practice
24 and shall not resume practice until notified by the Board. After taking into account documented
25 evidence of mitigation, if the Board files a petition to revoke probation or an accusation, the
26 Board may suspend Respondent from practice pending the final decision on the petition to
27 revoke probation or the accusation. This period of suspension will not apply to the reduction of
28 this probationary time period.

1 **17. Mental Health Examination.** Respondent shall, within 45 days of the
2 effective date of this Decision, have a mental health examination including psychological testing
3 as appropriate to determine her capability to perform the duties of a registered nurse. The
4 examination will be performed by a psychiatrist, psychologist or other licensed mental health
5 practitioner approved by the Board. The examining mental health practitioner will submit a
6 written report of that assessment and recommendations to the Board. All costs are the
7 responsibility of Respondent. Recommendations for treatment, therapy or counseling made as a
8 result of the mental health examination will be instituted and followed by Respondent.

9 If Respondent is determined to be unable to practice safely as a registered nurse,
10 the licensed mental health care practitioner making this determination shall immediately notify
11 the Board and Respondent by telephone, and the Board shall request that the Attorney General's
12 office prepare an accusation or petition to revoke probation. Respondent shall immediately cease
13 practice and may not resume practice until notified by the Board. During this period of
14 suspension, Respondent shall not engage in any practice for which a license issued by the Board
15 is required, until the Board has notified Respondent that a mental health determination permits
16 Respondent to resume practice. This period of suspension will not apply to the reduction of this
17 probationary time period.

18 If Respondent fails to have the above assessment submitted to the Board within
19 the 45-day requirement, Respondent shall immediately cease practice and shall not resume
20 practice until notified by the Board. This period of suspension will not apply to the reduction of
21 this probationary time period. The Board may waive or postpone this suspension only if
22 significant, documented evidence of mitigation is provided. Such evidence must establish good
23 faith efforts by Respondent to obtain the assessment, and a specific date for compliance must be
24 provided. Only one such waiver or extension may be permitted.

25 **18. Therapy or Counseling Program.** Respondent, at her expense, shall
26 participate in an on-going counseling program until such time as the Board releases her from this
27 requirement and only upon the recommendation of the counselor. Written progress reports from
28 the counselor will be required at various intervals.

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21.07 Physical Examination. Within 45 days of the effective date of this decision, respondent, at his/her expense, shall have a licensed physician, nurse practitioner, or physician assistant, who is approved by the Board before the assessment is performed, submit an assessment of the respondent's physical condition and capability to perform the duties of a registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If medically determined, a recommended treatment program will be instituted and followed by the respondent with the physician, nurse practitioner, or physician assistant providing written reports on forms provided by the Board.

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Robert Rudolph, Esq. I understand the stipulation and the effect it will have on my Registered Nurse, License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Registered Nursing.

DATED: 20 May 2009


CAROL ELIZABETH HOLLIDAY (Respondent)
Respondent

I concur with this stipulated settlement.

DATED: 5/20/2009


ROBERT RUDOLPH, ESQ.
Attorney for Respondent

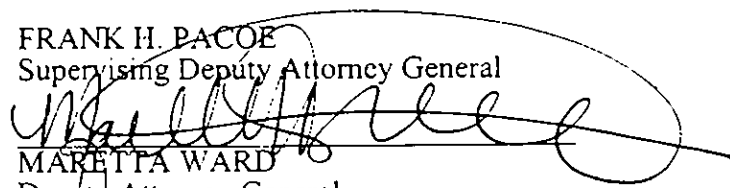
ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Registered Nursing.

DATED: May 20, 2009

EDMUND G. BROWN JR., Attorney General
of the State of California

FRANK H. PACOE
Supervising Deputy Attorney General


MARETTA WARD
Deputy Attorney General
Attorneys for Complainant

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BOARD OF
DIRECTORS

Exhibit A
Accusation No. 2008-50

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 FRANK H. PACOE 2008-08-01 10:00S
Supervising Deputy Attorney General
3 MARETTA D. WARD, State Bar No. 176470
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7 Attorneys for Complainant

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9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
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12 In the Matter of the Accusation Against:

Case No. 2008-50

13 **CAROL ELIZABETH HOLLIDAY**
109 Miramonte Drive
14 Moraga, California 94556

A C C U S A T I O N

15 Registered Nurse License No. 475931

16 Respondent.

17
18 Ruth Ann Terry, M.P.H., R.N. ("Complainant") alleges:

19 **PARTIES**

20 1. Complainant brings this Accusation solely in her official capacity as the
21 Executive Officer of the Board of Registered Nursing ("Board"), Department of Consumer
22 Affairs.

23 **Registered Nurse License**

24 2. On or about March 31, 1992, the Board issued Registered Nurse License
25 Number 475931 to Carol Elizabeth Holliday ("Respondent"). The registered nurse license is
26 currently on inactive status and will expire on March 31, 2008, unless renewed.

27 ///

28 ///

STATUTORY PROVISIONS

3. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under Code section 2811, subdivision (b), the Board may renew an expired license at any time within eight years after the expiration.

5. Code section 2761 states, in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions.

6. Code section 2762 states, in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

(c) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital, patient, or other record pertaining to the substances described in subdivision (a) of this section.

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7. Code section 4060 states, in pertinent part:

No person shall possess any controlled substances, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor.

8. Health and Safety Code section 11173, subdivision (a) provides that no person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure the administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation, or subterfuge; or (2) by the concealment of a material fact.

REGULATORY PROVISIONS

9. California Code of Regulations, title 16, section 1442, states:

As used in Section 2761 of the code, 'gross negligence' includes an extreme departure from the standard of care which, under similar circumstances, would have ordinarily been exercised by a competent registered nurse. Such an extreme departure means the repeated failure to provide nursing care as required or failure to provide care or to exercise ordinary precaution in a single situation which the nurse knew, or should have known, could have jeopardized the client's health or life.

10. California Code of Regulations, title 16, section 1443, states:

As used in Section 2761 of the code, 'incompetence' means the lack of possession of or the failure to exercise that degree of learning, skill, care and experience ordinarily possessed and exercised by a competent registered nurse as described in Section 1443.5.

COST RECOVERY

11. Code section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

12. DRUG

"Dilaudid," a brand of hydromorphone, is a Schedule II controlled substance as designated by Health and Safety Code section 11055, subdivision (b)(1)(K), and a dangerous drug under Code section 4022 in that under federal or state law it requires a prescription.

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1 " Cocaine" is a Schedule II controlled substance as designated by Health and
2 Safety Code section 11055, subdivision (b)(6).

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Gross Negligence)**

5 13. Respondent is subject to discipline under Code section 2761, subdivision
6 (a)(1), on the grounds of unprofessional conduct, in that between May 1, 2003, through May 5,
7 2003, while on duty as a registered nurse at Alta Bates Summit Medical Center, Berkeley,
8 California, Respondent committed acts constituting gross negligence within the meaning of
9 California Code of Regulations, title 16, section 1442, as more particularly set forth in
10 paragraphs 15 and 16, below.

11 **SECOND CAUSE FOR DISCIPLINE**

12 **(Incompetence)**

13 14. Respondent is subject to discipline under Code section 2761, subdivision
14 (a)(1), on the grounds of unprofessional conduct, in that between May 1, 2003, through May 5,
15 2003, while on duty as a registered nurse at Alta Bates Summit Medical Center, Berkeley,
16 California, Respondent committed acts constituting incompetence within the meaning of
17 California Code of Regulations, title 16, section 1443, as more particularly set forth in
18 paragraphs 15 and 16, below.

19 **THIRD CAUSE FOR DISCIPLINE**

20 **(Obtain and Possess a Controlled Substance in Violation of Law)**

21 15. Respondent is subject to discipline under Code section 2761, subdivision
22 (a), on the grounds of unprofessional conduct, as defined in Code section 2762, subdivision (a),
23 in that between May 1, 2003, through May 5, 2003, while on duty as a registered nurse at Alta
24 Bates Summit Medical Center, Berkeley, California, Respondent committed acts as follows:

25 a. Respondent obtained Dilaudid, a controlled substance, by fraud, deccit,
26 misrepresentation or subterfuge, by taking the drugs from hospital supplies, in violation of Health
27 and Safety Code section 11173, subdivision (a).

28 ///

1 b. Respondent possessed Dilaudid, a controlled substance, in violation of
2 Code section 4060.

3
4 **FOURTH CAUSE FOR DISCIPLINE**

5 **(Used Controlled Substances to an Extent
6 or in a Manner Dangerous or Injurious to Herself)**

7 16. Respondent is subject to discipline under Code section 2761, subdivision
8 (a) on the grounds of unprofessional conduct, as defined in Code section 2762, subdivision (b), in
9 that on or about April 13, 2005, Respondent used Cocaine and/or other controlled substances, to
10 an extent or in a manner dangerous or injurious to herself.

11 **FIFTH CAUSE FOR DISCIPLINE**

12 **(Falsify Patient and/or Hospital Records)**

13 17. Respondent is subject to discipline under Code section 2761, subdivision
14 (a), for unprofessional conduct, as defined by Code section 2762, subdivision (e), in that
15 between May 1, 2003, through May 5, 2003, while on duty as a registered nurse at Alta Bates
16 Summit Medical Center, Berkeley, California, Respondent falsified or made grossly incorrect,
17 inconsistent, or unintelligible entries in hospital and patient records, as follows:

18 **Patient #0589696**

19 a. On May 1, 2003, at 1:17:38 a.m., Respondent withdrew three 2 mg tablets
20 of Dilaudid from the Suremed System; however, Respondent failed to chart the administration or
21 wastage of any portion of the Dilaudid tablets in any patient or hospital record or otherwise
22 account for the disposition of the drug.

23 b. On May 1, 2003, at 4:51:47 a.m., Respondent withdrew three 2 mg tablets
24 of Dilaudid from the Suremed System; however, Respondent failed to chart the administration or
25 wastage of any portion of the Dilaudid tablets in any patient or hospital record or otherwise
26 account for the disposition of the drug.

27 c. On May 1, 2003, at 4:56:10 a.m., Respondent withdrew one 2 mg tablet of
28 Dilaudid from the Suremed System; however, Respondent failed to chart the administration or
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1 wastage of the Dilaudid tablet in any patient or hospital record or otherwise account for the
2 disposition of the drug.

3 d. On May 4, 2003, at 1:31:47 a.m., Respondent withdrew 4 mg of Dilaudid
4 from the Suremed System; however, Respondent failed to chart the administration or wastage of
5 any portion of the Dilaudid in any patient or hospital record or otherwise account for the
6 disposition of the drug.

7 e. On May 4, 2003, at 4:11:30 a.m., Respondent withdrew three 2 mg tablets
8 of Dilaudid from the Suremed System when there was no physician's order for Dilaudid tablets
9 for this patient. Respondent charted the administration of the three 2 mg tables in the patient's
10 medication administration record; however, the day shift noted that the patient said the Dilaudid
11 was not working.

12 f. On May 4, 2003, at 5:13:45 a.m., Respondent withdrew two 2 mg tablets
13 of Dilaudid from the Suremed System when there was no physician's order for Dilaudid tablets
14 for this patient. Respondent charted the administration of the two 2 mg tables in the patient's
15 medication administration record.

16 g. On May 5, 2003, at 12:50, Respondent withdrew two 4 mg vials of
17 Dilaudid from the Suremed System when there was no physician's order for Dilaudid for this
18 patient. Respondent charted the administration of 4 mg of Dilaudid, at 0050 hours and again at
19 0130 hours, in the patient's medication administration record.

20 h. On May 5, 2003, at 2:16, Respondent withdrew 4 mg of Dilaudid from the
21 Suremed System when there was no physician's order for Dilaudid for this patient. Respondent
22 charted the administration of the 4 mg of Dilaudid in the patient's medication administration
23 record at 0230 hours.

24 i. On May 5, 2003, at 4:07, Respondent withdrew 4 mg of Dilaudid from the
25 Suremed System when there was no physician's order for Dilaudid for this patient. Respondent
26 charted the administration of the 4 mg of Dilaudid in the patient's medication administration
27 record at 0320 hours, which was approximately 1 hour and 20 minutes prior to her withdrawal of
28 the drug from the Suremed System.

1 J. On May 5, 2003, at 4:07, Respondent withdrew three 2 mg tablets of
2 Dilaudid from the Suremed System when there was no physician's order for Dilaudid tablets for
3 this patient. Respondent failed to chart the administration or wastage or otherwise account for
4 the disposition of the Dilaudid in any patient or hospital record.

5 **PRAYER**

6 WHEREFORE, Complainant requests that a hearing be held on the matters herein
7 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

8 1. Revoking or suspending Registered Nurse License Number 475931, issued
9 to Carol Elizabeth Holliday;

10 2. Ordering Carol Elizabeth Holliday to pay the Board of Registered Nursing
11 the reasonable costs of the investigation and enforcement of this case, pursuant to Code section
12 125.3; and,

13 3. Taking such other and further action as deemed necessary and proper.
14

15 DATED: 8/14/07

16
17
18 Ruth Ann Terry for
19 RUTH ANN TERRY, M.P.H., R.N.
20 Executive Officer
21 Board of Registered Nursing
22 Department of Consumer Affairs
23 State of California
24 Complainant
25
26
27
28